

TITLE 16. BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than fifteen (15) days before the close of the written comment period. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on May 10, 2004. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the actions substantially as described below or may modify such actions if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for fifteen (15) days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this action or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by Section 2570.20 of the Business and Professions Code, and to implement, interpret or make specific Sections 125.6, 125.9, 475, 480, 481, 482, 490, 496, 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, and 2570.32 of said Code, and Section 11425.50(e), Government Code, the Board is considering changes to Division 39 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

On September 29, 2002, Senate Bill 1244 (Figueroa, Chapter 1079, Statutes of 2001), took effect, authorizing the Board to deny, suspend, revoke, or place on probation a license, certificate, inactive license, inactive certificate or limited permit when applicable. The purpose of the proposed regulations is to establish and clarify guidelines to aid attorneys, administrative law judges and the Board in making fair and consistent rulings regarding disciplinary matters throughout the State.

Section 4144: Existing law grants authority to the Board to take disciplinary action against licensees. Senate Bill 523 (Kopp, Chapter 938, Statutes of 1995) and Government Code 11425.50(e) provides that a penalty in an administrative disciplinary action cannot be based on guidelines unless they have been adopted as a regulation in accordance with the Administrative Procedure Act. To comply with the aforementioned provisions, the Board is proposing regulations to establish disciplinary guidelines by incorporating by reference, "Disciplinary Guidelines 2003." These regulations would assist attorneys, administrative law judges and the Board in rendering consistent and fair rulings regarding disciplinary matters throughout the State. The proposed disciplinary guidelines provide minimum and maximum penalties for various violations of the Occupational Therapy Practice Act, as well as standard and optional probationary terms when probation is deemed the appropriate sanction.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None.

The proposed regulations do not directly regulate businesses, do not require reports or any other compliance activities.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because the regulations do not regulate small businesses, do not require reports or any other compliance activities.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative to the regulation would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Occupational Therapy at 444 North Third Street, Suite 410, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person listed below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

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Sacramento, CA 95814
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The backup contact person is:

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Website Access: Materials regarding this proposal can be found at www.bot.ca.gov.